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AUG 13 2009

**OFFICE OF PETITIONS**

In re Application of :  
Johnny B. Corvin :  
Application No. 09/775,115 :  
Filed: February 1, 2001 :  
Attorney Docket No. UV-179

ON PETITION

This is a decision on the "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed July 21, 2009."

The petition is **GRANTED**<sup>1</sup>.

The above-cited application was held abandoned on January 10, 2009, after a proper response was not received following Notice of Panel Decision from Pr-Appeal Brief Review mailed December 9, 2008. A review of the relevant application file history reveals the following:

- On January 25, 2008, a final rejection is issued.
- On July 25, 2008, applicant filed a Notice of Appeal and a request for a pre-appeal brief review.
- On December 9, 2008, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed indicating that the application should proceed to the Board of Patent Appeals and Interferences and allowing an extendable period of one-month from the mailing date of the notice for applicant to file an appeal brief.
- On May 12, 2009, a Notice of Abandonment was mailed indicating that an appeal brief was not timely filed.
- On June 9, 2009, applicant obtained a request for an extension of time under 37 CFR 1.136 and filed a petition to withdraw the holding of abandonment. Petitioner argued therein that the holding of abandonment was prematurely imposed.
- On July 13, 2009, the petition to withdraw the holding of abandonment was dismissed.

By the instant renewed petition, petitioner requests that the holding of abandonment imposed by the Notice mailed May 12, 2009, be withdrawn as premature and that Office take note that application should not have been held abandoned until June 10, 2009, as the Notice of Panel Decision from Pre-Appeal Brief Review mailed December 9, 2008, set a shortened period for reply of one-month from its mailing date, but the period was extendable five-months from the expiration of the shortened period for reply pursuant to 37 CFR 1.136(a). Petitioner states that petitioner is seeking to properly establish co-pendency between

<sup>1</sup> The petition is granted as to the holding of abandonment imposed prematurely by the Notice of Abandonment mailed May 12, 2009.

the subject application and a continuation application filed June 9, 2009, accorded application serial number 12/481,484.

The argument is considered and is persuasive. The application was held abandoned prematurely by the notice mailed May 12, 2009. On June 9, 2009, applicant filed a timely request for extension of time within the fifth month, a continuation application, and the petition to withdraw the holding of abandonment so as to establish co-pendence with the continuation application.

The petition is granted as to the holding of abandonment imposed by the Notice mailed May 12, 2009.

It is noted that the application went abandoned on June 10, 2009 and remains so as per petitioner's expressed intention, with co-pendency established between the subject application and continuation application 12/481,484, filed June 9, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.



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Office of Petitions